

# Union Calendar No. 165

114TH CONGRESS  
1ST SESSION

# H. R. 998

[Report No. 114-219, Part I]

To establish the conditions under which the Secretary of Homeland Security may establish preclearance facilities, conduct preclearance operations, and provide customs services outside the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2015

Mr. MEEHAN (for himself, Mrs. MILLER of Michigan, Mr. COSTELLO of Pennsylvania, Mr. LANCE, Mr. ROGERS of Alabama, and Mr. McCaul) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 22, 2015

Reported from the Committee on Homeland Security with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

JULY 22, 2015

The Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 13, 2015]

# A BILL

To establish the conditions under which the Secretary of Homeland Security may establish preclearance facilities, conduct preclearance operations, and provide customs services outside the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

3   **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “Preclearance Authoriza-*  
5   *tion Act of 2015”.*

6   **SEC. 2. DEFINITION.**

7       *In this Act, the term “appropriate congressional com-*  
8   *mittees” means the Committee on Homeland Security and*  
9   *the Committee on Ways and Means of the House of Rep-*  
10   *resentatives and the Committee on Homeland Security and*  
11   *Governmental Affairs and the Committee on Finance of the*  
12   *Senate.*

13   **SEC. 3. ESTABLISHMENT OF PRECLEARANCE OPERATIONS.**

14       *Pursuant to section 1629 of title 19, United States*  
15   *Code, and subject to section 5, the Secretary of Homeland*  
16   *Security may establish U.S. Customs and Border Protec-*  
17   *tion preclearance operations in a foreign country to—*

18           *(1) prevent terrorists, instruments of terrorism,*  
19           *and other security threats from entering the United*  
20           *States;*

21           *(2) prevent inadmissible persons from entering*  
22           *the United States;*

23           *(3) ensure merchandise destined for the United*  
24           *States complies with applicable laws;*

1                   (4) ensure the prompt processing of persons eligi-  
2                   ble to travel to the United States; and

3                   (5) accomplish such other objectives as the Sec-  
4                   retary determines necessary to protect the United  
5                   States.

6 **SEC. 4. NOTIFICATION AND CERTIFICATION TO CONGRESS.**

7                   (a) **NOTIFICATION.**—Not later than 180 days before en-  
8 tering into an agreement with the government of a foreign  
9 country to establish U.S. Customs and Border Protection  
10 preclearance operations in such foreign country, the Sec-  
11 retary of Homeland Security shall provide to the appro-  
12 priate congressional committees the following:

13                   (1) A copy of the proposed agreement to establish  
14                   such preclearance operations, including an identifica-  
15                   tion of the foreign country with which U.S. Customs  
16                   and Border Protection intends to enter into a  
17                   preclearance agreement, the location at which such  
18                   preclearance operations will be conducted, and the  
19                   terms and conditions for U.S. Customs and Border  
20                   Protection personnel operating at the location.

21                   (2) An estimate of the date on which U.S. Cus-  
22                   toms and Border Protection intends to establish  
23                   preclearance operations under such agreement.

1                   (3) The anticipated funding sources for  
2 preclearance operations under such agreement, and  
3 other funding sources considered.

4                   (4) An assessment of the impact such  
5 preclearance operations will have on legitimate trade  
6 and travel, including potential impacts on passengers  
7 traveling to the United States.

8                   (5) A homeland security threat assessment for  
9 the country in which such preclearance operations are  
10 to be established.

11                  (6) An assessment of the impacts such  
12 preclearance operations will have on U.S. Customs  
13 and Border Protection domestic port of entry staffing.

14                  (7) Information on potential economic, competi-  
15 tive, and job impacts on United States air carriers  
16 associated with establishing such preclearance oper-  
17 ations.

18                  (8) Information on the anticipated homeland se-  
19 curity benefits associated with establishing such  
20 preclearance operations.

21                  (9) Information on potential security  
22 vulnerabilities associated with commencing such  
23 preclearance operations, and mitigation plans to ad-  
24 dress such potential security vulnerabilities.

1                   (10) A U.S. Customs and Border Protection  
2 staffing model for such preclearance operations, and  
3 plans for how such positions would be filled.

4                   (11) Information on the anticipated costs over  
5 the next five fiscal years associated with commencing  
6 such preclearance operations.

7                   (12) A copy of the agreement referred to in sub-  
8 section (a) of section 5.

9                   (13) Other factors that the Secretary of Home-  
10 land Security determines to be necessary for Congress  
11 to comprehensively assess the appropriateness of com-  
12 mencing such preclearance operations.

13                 (b) CERTIFICATIONS RELATING TO PRECLEARANCE  
14 OPERATIONS ESTABLISHED AT AIRPORTS.—In the case of  
15 an airport, in addition to the notification requirements  
16 under subsection (a), not later than 90 days before entering  
17 into an agreement with the government of a foreign country  
18 to establish U.S. Customs and Border Protection  
19 preclearance operations at an airport in such foreign coun-  
20 try, the Secretary of Homeland Security shall provide to  
21 the appropriate congressional committees the following:

22                 (1) A certification that preclearance operations  
23 under such preclearance agreement would provide  
24 homeland security benefits to the United States.

1                   (2) A certification that preclearance operations  
2       within such foreign country will be established under  
3       such agreement only if—

4                   (A) at least one United States passenger  
5       carrier operates at such airport; and

6                   (B) the access of all United States passenger  
7       carriers to such preclearance operations is the  
8       same as the access of any non-United States pas-  
9       senger carrier.

10                  (3) A certification that the Secretary of Home-  
11       land Security has considered alternative options to  
12       preclearance operations and has determined that such  
13       options are not the most effective means of achieving  
14       the objectives specified in section 3.

15                  (4) A certification that the establishment of  
16       preclearance operations in such foreign country will  
17       not significantly increase customs processing times at  
18       United States airports.

19                  (5) An explanation of other objectives that will  
20       be served by the establishment of preclearance oper-  
21       ations in such foreign country.

22                  (6) A certification that representatives from U.S.  
23       Customs and Border Protection consulted publically  
24       with interested parties, including providers of com-  
25       mercial air service in the United States, employees of

1       such providers, security experts, and such other par-  
2       ties as the Secretary determines to be appropriate, be-  
3       fore entering into such an agreement with such for-  
4       eign government.

5           (7) A report detailing the basis for the certifi-  
6       cations referred to in paragraphs (1) through (6).

7           (c) MODIFICATION OF EXISTING AGREEMENTS.—Not  
8       later than 30 days before substantially modifying a  
9       preclearance agreement with the government of a foreign  
10      country in effect as of the date of the enactment of this Act,  
11      the Secretary of Homeland Security shall provide to the ap-  
12      propriate congressional committees a copy of the proposed  
13      agreement, as modified, and the justification for such modi-  
14      fication.

15           (d) REMEDIATION PLAN.—

16           (1) IN GENERAL.—The Commissioner of U.S.  
17       Customs and Border Protection shall monthly meas-  
18       ure the average customs processing time to enter the  
19       25 United States airports that support the highest  
20       volume of international travel (as determined by  
21       available Federal passenger data) and provide to the  
22       appropriate congressional committees such measure-  
23       ments.

24           (2) ASSESSMENT.—Based on the measurements  
25       described in paragraph (1), the Commissioner of U.S.

1       *Customs and Border Protection shall quarterly assess*  
2       *whether the average customs processing time referred*  
3       *to in such paragraph significantly exceeds the average*  
4       *customs processing time to enter the United States*  
5       *through a preclearance operation.*

6           (3) *SUBMISSION.—Based on the assessment con-*  
7       *ducted under paragraph (2), if the Commissioner of*  
8       *U.S. Customs and Border Protection determines that*  
9       *the average customs processing time referred to in*  
10      *paragraph (1) significantly exceeds the average cus-*  
11      *toms processing time to enter the United States*  
12      *through a preclearance operation described in para-*  
13      *graph (2), the Commissioner shall, not later than 60*  
14      *days after making such determination, provide to the*  
15      *appropriate congressional committees a remediation*  
16      *plan for reducing such average customs processing*  
17      *time referred to in paragraph (1).*

18           (4) *IMPLEMENTATION.—Not later than 30 days*  
19       *after submitting the remediation plan referred to in*  
20       *paragraph (3), the Commissioner of United States*  
21       *Customs and Border Protection shall implement those*  
22       *portions of such plan that can be carried out using*  
23       *existing resources, excluding the transfer of personnel.*

24           (5) *SUSPENSION.—If the Commissioner of U.S.*  
25       *Customs and Border Protection does not submit the*

1       *remediation plan referred to in paragraph (3) within*  
2       *60 days in accordance with such paragraph, the Com-*  
3       *mmissioner may not, until such time as such remedi-*  
4       *ation plan is submitted, conduct any negotiations re-*  
5       *lating to preclearance operations at an airport in*  
6       *any country or commence any such preclearance op-*  
7       *erations.*

8           (6) *STAKEHOLDER RECOMMENDATIONS.—The re-*  
9       *mediation plan described in paragraph (3) shall con-*  
10      *sider recommendations solicited from relevant stake-*  
11      *holders.*

12      (e) *CLASSIFIED REPORT.—The assessment required*  
13     *pursuant to subsection (a)(5) and the report required pur-*  
14     *suant to subsection (b)(7) may be submitted in classified*  
15     *form if the Secretary of Homeland Security determines that*  
16     *such is appropriate.*

17   **SEC. 5. AVIATION SECURITY SCREENING AT**  
18       **PRECLEARANCE AIRPORTS.**

19      (a) *AVIATION SECURITY STANDARDS AGREEMENT.—*  
20     *Prior to the commencement of preclearance operations at*  
21     *an airport in a foreign country under this Act, the Admini-*  
22     *istrator of the Transportation Security Administration*  
23     *shall enter into an agreement with the government of such*  
24     *foreign country that delineates and requires the adoption*  
25     *of aviation security screening standards that are deter-*

1     mined by the Administrator to be comparable to those of  
2     the United States.

3         (b) AVIATION SECURITY RESCREENING.—If the Ad-  
4     ministrator of the Transportation Security Administration  
5     determines that the government of a foreign country has not  
6     maintained security standards and protocols comparable to  
7     those of the United States at airports at which preclearance  
8     operations have been established in accordance with an  
9     agreement entered into pursuant to subsection (a), the Ad-  
10    ministrator shall require the rescreening in the United  
11    States by the Transportation Security Administration of  
12    passengers and their property before such passengers may  
13    deplane into sterile areas of airports in the United States.

14         (c) SELECTEES.—Any passenger who is determined to  
15    be a selectee based on a check against a terrorist watch list  
16    and arrives on a flight originating from a foreign airport  
17    at which preclearance operations have been established in  
18    accordance with an agreement entered into pursuant to sub-  
19    section (a), shall be required to undergo security rescreening  
20    by the Transportation Security Administration before being  
21    permitted to board a domestic flight in the United States.

22    **SEC. 6. LOST AND STOLEN PASSPORTS.**

23         The Secretary of Homeland Security may not enter  
24    into or renew an agreement with the government of a for-  
25    eign country to establish or maintain U.S. Customs and

1   *Border Protection preclearance operations at an airport in*  
2   *such foreign country unless such government certifies—*

3           *(1) that it routinely submits information about*  
4           *lost and stolen passports of its citizens and nationals*  
5           *to INTERPOL's Stolen and Lost Travel Document*  
6           *database; or*

7           *(2) makes available to the United States Govern-*  
8           *ment such information through another comparable*  
9           *means of reporting.*

10   **SEC. 7. EFFECTIVE DATE.**

11       *Except for subsection (c) of section 4, this Act shall*  
12   *apply only to the establishment of preclearance operations*  
13   *in a foreign country in which no preclearance operations*  
14   *have been established as of the date of the enactment of this*  
15   *Act.*



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**[Report No. 114-219, Part I]**

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